

PATENT  
454313-2339IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

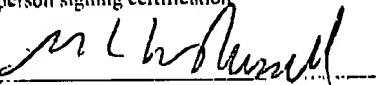
Applicant(s) : Phillip JEANNIN  
Serial No. : 08/863,692  
For : INSECTICIDAL COMBINATION TO CONTROL MAMMAL  
FLEAS, IN PARTICULAR FLEAS ON CATS AND DOGS  
Filed : May 27, 1997  
Examiner : S. Clardy  
Art Unit : 1616  
Batch No : E 11

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May 12, 2000

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PETITION FOR ENTRY OF AMENDMENT  
AFTER ALLOWANCE

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Petitioners hereby petition the Assistant Commissioner for entry of the Amendment

Under 37 CFR 1.312(b), filed concurrently herewith.

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If required, Petitioner authorized the Assistant Commissioner to charge the fee required by 37 CFR § 1.17(i) against Deposit Account 50-0320. Should any additional fee be required, petitioners authorized the Assistant Commissioner to charge such fee or credit any overpayments to Deposit Account 50-0320.

This petition is based on the fact that, prior to the Allowance of the application, Petitioners filed an Information Disclosure Statement (IDS) on September 30, 1999 and a Supplemental IDS on October 20, 1999. These IDS's were filed pursuant to 37 CFR § 1.97(c).

Prior to receiving the Supplemental IDS, the Examiner allowed the application, issuing a Notice of Allowance and a Notice of Allowability on November 9, 1999. Upon receipt of the Notice of Allowability, Petitioners filed a Communication on November 24, 1999, which indicated that the Supplemental IDS had not been considered and attached a copy of the Supplemental IDS with the reference for the Examiner's convenience. Unfortunately, the Examiner never received the Supplemental IDS and, of the date of this petition, has not been able to obtain the official file. In order to prevent the application from going abandoned Petitioners paid the issue fee on the February 9, 2000 due date.

On April 5, 2000 Mr. Clardy graciously granted an interview with the undersigned in order to discuss the prior patents cited in the Supplemental IDS to discuss claim language that overcomes any patentability issues which might have arisen because of these patents. The Amendment filed concurrently herewith is responsive to that interview.

Petitioners submit that these facts demonstrated that these are good and sufficient reasons why the Amendment was not earlier presented and why it is necessary.

The Amendment could not be earlier presented because the U.S. Patent Office has not been able to locate the file and return it to the Examiner, despite his repeated requests, so that he

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could consider the Supplemental I.D.S. and evaluate how the prior patents, cited therein, affect the patentability of the claims as allowed. In fact, Petitioners respectfully argue that the present Petition and Amendment would not have been necessary if the Patent Office had provided the file to the Examiner. Under normal circumstances, if the prior patents affected the patentability of the claims, as allowed, the Examiner would have withdrawn the allowance and issue a new Office Action, thereby giving Petitioners an opportunity to amend these claims. Moreover, as this Petition is due to delays at the Patent Office, Petitioners believe that they should not be required to pay the petition fee and, if possible, request a refund.

Second, Applicants believe that this Amendment is necessary in view of the outcome of the interview with the Examiner. During the interview, the Examiner suggested Petitioners amend the claims in this manner in order to avoid issues concerning the patentability of the claims.

In view of the foregoing, Petitioners request that this Petition be granted.

Respectfully submitted,

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